IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

WP(C).No. 12677 of 2004(H)

PETITIONER:

**V.K.RAMADAS, S/O.GOVINDAN, AGED 47 YEARS
WORKING AS MANAGER K.S.B.C. LTD., PATHANAMTHITTA,
HAVING PERMANENT RESIDENCE AT SIVASAKTHI BHAVAN,
THALASSERY, KANNUR DISTRICT.**

BY ADV. SRI.R.SURENDRAN

RESPONDENTS:

1. **THE KERALA STATE BEVERAGES(MANUFACTURING AND MARKETING) CORPROATION LTD., REP. BY ITS MANAGING DIRECTOR, SASTHAKRIPA OFFICE COMPLEX, SASTHAMANGALAM, THIRUVANANTHAPURAM.**

2. **THE MANAGING DIRECTOR, KERALA STATE BEVERAGED(MANUFACTURING & MARKETING) CORPORATION LTD., SASTHAKRIPA OFFICE COMPLEX, SASTHAMANGALAM, THIRUVANANTHAPURAM. 695 010.**

BY ADV. SRI.K.P.DANDAPANI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.12677/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE MEMO DT.8.3.02 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

EXT.P2:- COPY OF THE EXPLANATION FILED BY THE PETITIONER ON 14.3.02.

EXT.P3:- COPY OF THE EXPLANATION FILED BY THE PETITIONER ON 15.3.02.

EXT.P4:- COPY OF THE ORDER NO.AE3/6505/01 DT.19.3.02 ISSUED BY THE 2ND RESPONDENT.

EXT.P5:- COPY OF THE MEMO OF CHARGES TOGETHER WITH STATEMENT OF ALLEGATIONS DT.2.4.02 ISSUED BY THE 2ND RESPONDENT.

EXT.P6:- COPY OF THE ENQUIRY REPORT DT.12.5.02.

EXT.P7:- COPY OF THE ORDER NO.AE.3/6505/01 DT.21.5.02 ISSUED BY THE 2ND RESPONDENT.

EXT.P8:- COPY OF THE APPEAL DT.16.7.02.

EXT.P9:- COPY OF THE ORDER NO.AE.3/6505/01 DT.20.9.02 ISSUED BY THE 1ST RESPONDENT.

/TRUE COPY/

TSS

KURIAN JOSEPH, J.

W.P(C)No.12677 of 2004

Dated this the 14th day of March, 2007

JUDGMENT

Aggrieved by Ext.P7 order of punishment of barring two increments with cumulative effect based on Ext.P6 report and also limiting the suspension period to the subsistence allowance admissible as per the rules petitioner preferred Ext.P8 appeal before the first respondent. By Ext.P9 order the punishment was modified as two increments without cumulative effect and treating the period of suspension as duty only for pensionary benefits. It is pointed out that under Rule 83 suspension itself is a substantive punishment and withholding of increment is yet another punishment. Since there cannot be two punishments for one and the same charge, the matter requires reconsideration by the appellate authority. I quash Ext.P9 in the matter of penalty, with a direction to the appellate authority to look into the appeal afresh and pass fresh orders in the light of the contention taken by the petitioner as noted above. In case the petitioner requests for an opportunity for hearing, the same shall also be granted

to the petitioner. The needful shall be done within a period of three months from the date of production of a copy of this judgment. Needless to say that Ext.P7 will not be implemented till such time.

The writ petition is disposed of as above.

(KURIAN JOSEPH, JUDGE)

ahg.